

Internal Revenue Service

Department of the Treasury

District
Director

P.O. Box 1680, GPO Brooklyn, N.Y. 11202

Date: SEP 02 1988

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(4) of the Internal Revenue Code.

The evidence presented disclosed that you were incorporated on [REDACTED] in [REDACTED].

The purposes for which the organization was formed are as follows:

"To benefit of the residents of a certain subdivision in the Town of [REDACTED], [REDACTED] County, [REDACTED] known as "[REDACTED]" shown on a plan recorded at the [REDACTED] Registry of Deeds Plan Book [REDACTED] Page [REDACTED]. This corporation is organized and will be operated to provide for the acquisition, construction, management, maintenance, and care of property designated "Open Space" and the roadways as shown on said plan, in accordance with the laws of [REDACTED] and the zoning by-laws of the Town of [REDACTED].

To enforce, maintain, amend and otherwise deal with the protective covenants and restrictions pertaining to the above-described property.

To do or cause to have done any and all such acts and things as may be appropriate to the foregoing purposes."

Your activities consist of the care, management and maintenance of common "open space" land; and to oversee the protective covenants and restrictions pertaining to the property.

Membership to your organization is limited by ownership of a lot within [REDACTED]; and is presently comprised of [REDACTED] members. Membership dues will be used exclusively for maintenance of common "open space." The organizations activities will not be directed to the exterior maintenance of private residences, but only to common areas or facilities, such as roadway, playing field, garden, picnic area, street lights, irrigation system, walking and jogging trails. The use and enjoyment of common areas will be limited to the purchasers of each houselot, and will not be extended to members of the general public. Also, you have indicated that the activities of your organization will not confer benefit on a community comprising a "geographical unit" which bears a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof.

Section 501(c)(4) of the Internal Revenue Code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it primarily engages in promoting in some way the common good and general welfare of the people of the community.

Section 1.501(c)(4)-1(a)(2)(ii) of the Regulations provides that an organization is not operated primarily for the promotion of social welfare if its primary activity is carrying on a business with the general public in a manner similar to organizations that are operated for profit.

The concept of social welfare implies a service or program directed at benefitting the community rather than a private group of individuals.

Revenue Ruling 74-99, 1974-1 C.B. 131 states that a homeowners association must, in addition to otherwise qualifying for exemption under section 501(c)(4) of the Code, satisfy the following requirements: (1) It must engage in activities that confer benefit on a community comprising a geographical unit which bears a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof;...and (3) It owns and maintains only common areas or facilities such as roadways and parklands, sidewalks and street lights, access to, or the use and enjoyment of which is extended to members of the general public and is not restricted to members of the homeowners association.

Since your organization does not confer benefit on a community comprising a "geographical unit"; and will be maintaining common grounds at the Association's expense for the exclusive benefit of the members and is not accessible to other members of the general public; your activities would not meet the requirements of section 501(c)(4) of the Code, as set forth in Revenue Ruling 74-99.

It appears that your organization may elect to file under section 528 to receive certain tax benefits which, in effect, permit the exclusion of exempt function income from gross income. The election to file under section 528 is to be made by filing Form 1120-H, U.S. Income Tax Return for Homeowners Associations. However, if you do not elect to file under section 528, you are required to file Federal income tax returns on Form 1120.

We have also considered your Application 1024 for exemption under section 501(c)(2) of the Code.

Section 501(c)(2) of the Internal Revenue Code provides for the exemption from Federal income tax of corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt under section 501(a) of the Code.

The aforementioned activities previously cited are inconsistent with that of a "Title holding Corporation" as defined in section 501(c)(2) of the Code.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(4) of the Code and propose to deny your request for exemption under that section.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).


You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time, this determination will become final.

Sincerely yours,


District Director